

Humane Treatment of Farm Animals: Overview and Issues

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Summary

Animal welfare supporters in the United States have long sought legislation to modify or curtail some practices considered by U.S. agriculture to be acceptable or even necessary to animal health. Members of Congress over the years have offered various bills that would affect animal care on the farm, during transport, or at slaughter; several proposals were introduced in the 111th Congress, although no further action was taken on the bills. No bills have been introduced in the 112th Congress. Members of the House and Senate Agriculture Committees generally have expressed a preference for voluntary rather than regulatory approaches to humane care. Meanwhile, animal welfare supporters have won initiatives in several states to impose some care requirements on animal producers.

Contents

Background	1
Criticisms of Animal Agriculture Practices	1
Defense of Animal Agriculture Practices	2
In Congress	2
On-Farm Care	3
Humane Slaughter	4
Downers	4
Horse Slaughter	5

Contacts

Author Information	6
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Background

USDA's Animal and Plant Health Inspection Service (APHIS) is responsible for enforcing the Animal Welfare Act (AWA; 7 U.S.C. 2131 et seq.), which requires minimum standards of care for certain warm-blooded animals bred for commercial sale, used in research, transported commercially, or exhibited to the public. However, the act excludes farm animals raised for food and fiber from coverage.¹

The Humane Methods of Slaughter Act (7 U.S.C. 1901 et seq.), enforced by USDA's Food Safety and Inspection Service (FSIS), governs the slaughter and handling of livestock (but not poultry) at packing plants. Also, under the so-called Twenty-Eight Hour Law (49 U.S.C. 80502, last amended in 1994), many types of farm animal carriers "may not confine animals in a vehicle or vessel for more than 28 consecutive hours without unloading the animals for feeding, water, and rest."²

At the state level, laws to prevent deliberate animal cruelty sometimes apply to farm animals, but few states have prescribed on-farm treatment standards. That appears to be changing in states where animal activists have sponsored successful ballot measures to impose care standards on animal producers.³ In Florida, voters approved a 2002 ballot measure outlawing gestation crates for pigs; in Arizona, voters did the same, along with a veal stall ban, in 2006. In 2008, California voters approved Proposition 2, which will require that veal calves, egg-laying hens, and pregnant pigs be allowed to lie down, stand up, fully extend their limbs and turn around freely. The California law, to take effect in 2015, subjects violators to misdemeanor penalties of up to \$1,000 in fines and/or 180 days in jail.⁴ Maine and Michigan have also passed laws regulating the housing of farm animals.

Criticisms of Animal Agriculture Practices

Many animal protection groups assert that today's industrial farming systems perpetuate standard practices that in their view are harmful to animals' well-being. Examples include:

- rearing large numbers of livestock or poultry in close confinement with little or no room for natural movement and activity (e.g., housing sows in small gestation crates, chickens in battery cages);
- isolating veal calves in small crates;
- performing surgery such as docking hog tails, dehorning cattle, and trimming poultry beaks (so that confined animals do not hurt each other or their handlers);
- permitting commercial movement of nonambulatory livestock ("downers") that are disabled due to sickness or injury; and

¹ See CRS Report RS22493, *The Animal Welfare Act: Background and Selected Legislation*, by Tadlock Cowan..

² See also CRS Report 94-731, *Brief Summaries of Federal Animal Protection Statutes*, by Vivian S. Chu.

³ Several widely disseminated pictures and films of producers abusing animals on farms and in slaughterhouses have led to several states (e.g., Minnesota, Iowa, Florida) considering legislation that would make it a felony for activists and journalists to carry out undercover investigation of agribusiness operations. Kansas and Montana already have similar laws in place.

⁴ Humane Society of the United States, "Californians Deliver Decisive Victory to Prevent Factory Farm Cruelty by Passing Proposition 2," http://www.humanesociety.org/news/press_releases/2008/11/californians_deliver_decisive_victory_on_prop_2_110508.html.

- not fully stunning poultry (which are not covered by the humane slaughter act) and, sometimes, livestock (most of which are covered) before slaughter.⁵

Some of these groups point to the relation between intensive animal agriculture and soil and water pollution, food safety problems (e.g., misuse of animal drugs, and foodborne bacterial illnesses), and the decline of smaller-scale, “family” farms.⁶ They also believe that if regulators approve future applications of biotechnology—such as animal cloning, genetic alterations to improve productivity, and the use of livestock as “factories” for pharmaceuticals and human organs—animal well-being will be compromised. Some animal rights groups advance the more controversial argument that humans have no right to use animals for any purpose, including for food.

Defense of Animal Agriculture Practices

Farmers and ranchers maintain that they understand their animals’ welfare needs and address them adequately. They express concern that efforts by poorly informed critics could lead to costly and counterproductive regulations harmful to their industry and the animals alike. Agricultural, food processing, and a number of animal science groups have argued that support for science, education, and voluntary guidelines are more effective ways of assuring animal welfare.

Recognizing that more customers are concerned about animal treatment, some major food retailers have developed humane animal care standards their suppliers must follow. Also, various industry groups have published voluntary standards for care that they encourage members to meet, including the American Meat Institute, American Sheep Industry Association, National Cattlemen’s Beef Association, National Chicken Council, Pork Board, and United Egg Producers. Several of these, along with Certified Humane Raised and Handled, and Free Farmed of the American Humane Association, provide so-called third party certification programs intended to assure consumers that products were derived from producers who followed prescribed care standards. Some animal welfare groups contend that such voluntary industry standards are not strong or specific enough, are not enforceable, and/or are primarily marketing contrivances.

In Congress

Members of Congress have offered various proposals to require changes in the treatment of animals on the farm, during transport, or at slaughter. Members of the House and Senate Agriculture Committees, which generally have jurisdiction over such bills, have held hearings on various farm animal welfare issues, but they have generally expressed a preference for voluntary rather than regulatory approaches to improving animal care.

⁵ The Livestock Behavior Research Unit, a division of USDA’s Agricultural Research Service, has produced a series of fact sheets aimed at improving farm animal welfare (e.g., sow housing, poultry beak trimming, stress, dairy cow lameness). These fact sheets can be accessed at <http://www.ars.usda.gov/News/News.htm?modecode=36-02-20-00>.

⁶ In the 111th Congress, companion bills (H.R. 1549, S. 619) were introduced that would have phased out the nontherapeutic use in food animals of seven specific classes of antibiotic drugs that can also be used to treat or prevent diseases and infections in humans. The legislation was aimed at addressing concerns that the widespread use of these drugs in animal agriculture has contributed to an increase in antibiotic resistance among sick patients. The bill, Preservation of Antibiotics for Medical Treatment Act of 2011 (H.R. 965), was reintroduced in the 112th Congress. See CRS Report R40739, *Antibiotic Use in Agriculture: Background and Legislation*, by Renée Johnson.

On-Farm Care

In the 110th Congress, a key provision in the potentially sweeping Farm Animals Anti-Cruelty Act (H.R. 6202) stated, “[w]hoever, without justification, kills, mutilates, disfigures, tortures, or intentionally causes an animal held for commercial use pain or suffering, or has responsibility for an animal held for commercial use and fails to provide food, water, shelter, and health care as is necessary to assure the animal’s health and well-being appropriate to the animal’s age and species,” is subject to penalties of up to one year in jail and/or \$100,000 in fines. “Commercial use” would mean “use, or intended for use, as food or fiber or for food or fiber production.” A separate bill, H.R. 1726, would have required the federal government to purchase products derived from animals only if they were raised according to humane standards (i.e., had adequate shelter with sufficient space to walk and move around with limbs fully extended, had adequate food and water with no starvation or force-feeding, and had adequate veterinary care).

A differing version of H.R. 1726 was introduced in the 111th Congress. The Prevention of Farm Animal Cruelty Act (H.R. 4733), introduced on March 2, 2010. The bill was referred to the House Agriculture Committee’s Subcommittee on Livestock, Dairy, and Poultry, where no further action was taken. The bill would have prohibited a federal agency from purchasing any food product derived from a “covered animal”—a pregnant pig, a veal calf, or egg-laying hen—unless the animal was raised with adequate space to “stand up, lie down, and turn around freely” and to “fully extend all limbs.” (These phrases are defined more specifically in the bill.) The measure also would have exempted covered animals from this compliance requirement during lawful transport; during slaughter, in compliance with the Humane Methods of Slaughter Act; in lawful rodeo, state or county, or other exhibitions; in lawful scientific or agricultural research; while undergoing veterinary procedures; and, in the case of a pregnant pig, during the seven-day period immediately before the expected birth date.

In the 111th Congress, companion bills (H.R. 1549, S. 619, Preservation of Antibiotics for Medical Treatment Act of 2009) were introduced that would have phased out the nontherapeutic use in food animals of seven specific classes of antibiotic drugs that can also be used to treat or prevent diseases and infections in humans. The bill (H.R. 965) was reintroduced in the 112th Congress.⁷ The legislation is aimed at addressing concerns that the widespread use of these drugs in animal agriculture has contributed to an increase in antibiotic resistance among sick patients. In July 2010, the House Energy and Commerce Subcommittee on Health held hearings on antibiotic use in animals.⁸ FDA, USDA, and the Centers for Disease Control (CDC) testified about the importance of using antimicrobial drugs judiciously and detailed current efforts underway to combat antimicrobial resistance.

In June 2010, FDA published its draft guidance document on antimicrobial use in food animals.⁹ In the report, FDA stated that “the overall weight of evidence available to date supports the conclusion that using medically important antimicrobial drugs for production or growth-enhancing purposes (i.e., non-therapeutic or subtherapeutic uses) in food-producing animals is not in the interest of protecting and promoting the public health.” At the July 2010 hearing, one witness testified about the importance of antibiotic use in animals. He said, “The best way to manage antibiotic uses in animal agriculture is through sound, rational, science-based policy.” The witness also stated that “the removal of growth-promoting antibiotics from use in food

⁷ See CRS Report R40739, *Antibiotic Use in Agriculture: Background and Legislation*, by Renée Johnson.

⁸ Testimony of witnesses is available at <http://energycommerce.house.gov/hearings/hearingdetail.aspx?NewsID=8001>.

⁹ Food and Drug Administration, *Draft Guidance on the Judicious Use of Medically Important Antimicrobials in Food-Producing Animals*, June 28, 2010. Report accessible at <http://www.fda.gov/downloads/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/UCM216936.pdf>.

animals in Denmark resulted in an increased reliance on therapeutic doses of medically important antibiotics to treat the ill animals.” Some witnesses spoke of the need to follow the Denmark example and ban the use of antibiotics.

Humane Slaughter

The treatment of farm animals reached center stage in February 2008, when USDA announced the largest-ever meat recall, by Hallmark/Westland Meat Packing Co. The recall came after USDA-FSIS found that the facility for at least two years did not always notify inspectors about cattle that had become nonambulatory after they had been inspected, but before they were slaughtered for food. FSIS regulations explicitly prohibit most nonambulatory (“downer”) cattle in human food, because of their higher risk of bovine spongiform encephalopathy (BSE, or “mad cow disease”). Moreover, FSIS charged that the plant had violated the Humane Slaughter Act, which first came to light after animal welfare advocates secretly videotaped what they described as employees inhumanely handling downer cattle before slaughter. The act stipulates, among other things, that “[n]o method of slaughtering or handling in connection with slaughtering shall be deemed to comply with the public policy of the United States unless it is humane.”

In a number of subsequent 2008 hearings, FSIS came under strong criticism for failing to enforce the act. This was despite the fact that Congress had included, in the 2002 farm bill (P.L. 107-171, Section 10305), a resolution urging USDA to fully enforce it and to report the number of violations to Congress annually. Since then, Congress—through annual USDA appropriations acts—has been directing millions of dollars to FSIS for full-time inspectors to oversee compliance, and for incorporation of a humane tracking system into the agency’s field computer systems.

A House Oversight and Government Reform subcommittee held a hearing on March 4, 2010, to review FSIS performance in enforcing the humane slaughter law. Among other testimony presented to the panel, the Government Accountability Office (GAO) presented findings of a report and survey that described FSIS’s lax and inconsistent actions to enforce HMSA. GAO surveyed 235 plants and examined a sample of FSIS noncompliance reports and suspension data for FY2005-FY2009. The report suggested that FSIS inspectors had been inconsistently enforcing the law, possibly because of a lack of clarity in current FSIS guidance and inadequate training of FSIS inspectors.¹⁰ More specifically, GAO noted that agency guidance had not clearly indicated when certain enforcement actions were to be taken for egregious violations of the HMSA.

In January 2011, FSIS announced that it will appoint an ombudsman to address animal humane handling issues. The individual will provide FSIS employees with the opportunity to raise “concerns when the standard reporting mechanisms do not adequately address outstanding issues” involving humane handling issue. Also, FSIS is asking USDA’s Office of the Inspector General to conduct an audit regarding industry appeals of noncompliance records and other humane handling enforcement actions by FSIS employees.

Downers

In 2005, the Senate-passed version of H.R. 2744, USDA’s FY2006 appropriation, included a floor amendment, sponsored by Senator Akaka, to prohibit nonambulatory livestock (also called “downers”) from being used for human food. The Akaka amendment would have applied not only to nonambulatory cattle (which by FSIS regulation are already generally banned from the food

¹⁰ GAO, *Humane Methods of Slaughter Act: Actions are Needed to Strengthen Enforcement* (GAO-10-203), February 2010.

supply), but also to any sheep, swine, goats, horses, mules or other equines unable to stand or walk unassisted at inspection. The House version lacked such a ban, and conferees removed the Senate language prior to final passage (P.L. 109-97). The proposal re-emerged in the 110th Congress as S. 394 and H.R. 661—which also would have required that nonambulatory livestock be humanely euthanized rather than slaughtered. S. 2770 contained similar provisions and also would have set gradually increasing penalties for violations.

In the 111th Congress, the Senate-passed version of the American Recovery and Reinvestment Act of 2009 (H.R. 1) also included a provision to permanently prohibit the use of federal funds for inspecting any nonambulatory disabled cattle for use as human food, regardless of the reason or time the animal became nonambulatory. (Uninspected cattle cannot enter the food supply.) House-Senate conferees deleted the Senate provision from the final bill.

A freestanding bill (H.R. 4356) was also introduced in the 111th Congress that would ban the slaughter of downed cattle and calves, require their euthanization, and extend coverage beyond slaughter facilities, to livestock markets. The measure, introduced on December 16, 2009, was referred to the House Agriculture Committee where no further action on the bill was taken.

Horse Slaughter

For many years, horse protection groups have sought to end the slaughter of horses for human food. Policy issues focus on the acceptability of the practice and on how to dispose of or care for unwanted horses no longer being slaughtered. Until 2007, two foreign-owned plants in Texas and one in Illinois slaughtered horses for human food (105,000 in 2006), all for export. On January 19, 2007, however, a federal appeals court panel declared a Texas law banning commerce in horsemeat to be enforceable, effectively closing the two plants there. The remaining foreign plant in Illinois closed later in 2007 after a federal appeals court ruled that a new state law banning the practice was constitutional. The U.S. Supreme Court declined to hear the case in June 2008.¹¹

These developments occurred as Congress considered a succession of measures to ban or otherwise limit equine slaughter. During respective floor debates on USDA's FY2006 appropriation (P.L. 109-97), the House and Senate approved amendments to ban use of appropriated funds to pay for the inspection of these horses. The presumption was that since inspection is required for any meat to enter the human food supply, a ban on inspection funding would halt the practice. However, the three plants petitioned USDA for voluntary ante-mortem inspection services, as authorized by the Agricultural Marketing Act of 1946, with the ante-mortem portion funded by user fees. USDA agreed to this plan, which took effect in early 2006. Subsequently, the FY2008 USDA appropriation (§ 741, Division A, of the Consolidated Appropriations Act, 2008, P.L. 110-161) both prohibited the use of appropriated funds to inspect horses prior to slaughter for human food, and also the USDA rule (see above) that provided for the collection of user fees.

Animal welfare groups have continued to seek new federal legislation, such as companion bills H.R. 503/S. 311, and H.R. 6598 in the 110th Congress, to permanently end horse slaughter for human food. The American Veterinary Medical Association (AVMA), which has opposed the bills, has asserted that horses that otherwise would have been transported and slaughtered in the United States—under more humane conditions—are now going to Mexico and Canada for processing. In 2007, more than 44,000 horses were shipped for slaughter to Mexico and 35,000 to

¹¹ While Congress debates prohibiting horse slaughter, several states are considering establishing horse processing facilities (e.g., South Dakota, North Dakota, Tennessee, Idaho). Legislation to permit investor-owned equine processing facilities in Montana went into effect in May 2009.

Canada, respectively a 312% and 41% increase from 2006, according to AVMA. Bill supporters argued that one of the intentions of H.R. 503/S. 311 and of H.R. 6598 was to prevent such exports; bill critics countered that once horses leave the country, enforcement and oversight would be difficult at best. A separate bill, the Horse Transportation Safety Act (H.R. 6278), would have prohibited the interstate transportation of horses in double-decked trailers.¹²

Both H.R. 503 and H.R. 6278 were reintroduced into the 111th Congress, as H.R. 503/S. 727 (the Prevention of Equine Cruelty Act of 2009), respectively. The bill was referred to the House Subcommittee on Crime, Terrorism, and Homeland Security where no further action was taken. The Horse Transportation Safety Act was also reintroduced in the 111th Congress as H.R. 305. The bill was reported by the Committee on Transportation on September 28 (H.Rept. 111-645) and placed on the Union Calendar where no further action was taken.

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¹² See also CRS Report RS21842, *Horse Slaughter Prevention Bills and Issues*, by Tadlock Cowan.